

UNITED STATES DISTRICT COURT

for the

Eastern District of California

FILED

Mar 02, 2021

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

United States of America

v.

Leobardo Gerardo ANAYA

Case No. 2:21-mj-0037 DB

SEALED

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Aug. 26, 2020 & Jan. 13, 2021 in the county of Solano & Stanislaus in the
Eastern District of California, the defendant(s) violated:

Code Section

Offense Description

21 U.S.C. § 841(a)(1)

Distribution and/or possession with intent to distribute a controlled substance

This criminal complaint is based on these facts:

See attached affidavit of FBI Task Force Officer Brian Collins

☒ Continued on the attached sheet.

/s/ Brian Collins

Complainant's signature

Brian Collins, FBI TFO

Printed name and title

Sworn to before me telephonically:

Date: March 2, 2021

City and state: Sacramento, California


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

**AFFIDAVIT OF TASK FORCE OFFICER BRIAN COLLINS IN SUPPORT
OF A CRIMINAL COMPLAINT AND ARREST WARRANT**

I, BRIAN COLLINS, being duly sworn, state as follows:

1. I am a Task Force Officer (“TFO”) with the Federal Bureau of Investigation (“FBI”), and have been since August 2019.

2. I submit this Affidavit in support of a criminal complaint and arrest warrant for Leobardo Gerardo ANAYA. As described below, I believe there is probable cause to believe that on or about August 26, 2020 and January 13, 2021, in the State and Eastern District of California, ANAYA committed violations of 21 U.S.C. § 841(a)(1), distribution and/or possession with intent to distribute a mixture or substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide), a Schedule I controlled substance.

AFFIANT’S BACKGROUND & EXPERIENCE

3. I am an undercover Detective with the Vacaville Police Department. I have been a sworn peace officer with the City of Vacaville since May 2015. I am currently assigned to the Vice Team and have been since October 2017, and I served with the Patrol Division for two and a half years before that. Prior to joining the Vacaville Police Department, I served with the Benicia (CA) Police Department for four years, and with the Hercules (CA) Police Department for two years before that. In August 2019, I was cross-designated as a TFO with the FBI, Sacramento Division, Fairfield Resident Agency. In this role, I am responsible for investigating firearms,

narcotics, and gang related activity in Solano County as a member of the Solano County Violent Crime Task Force.

4. I have received thousands of hours of formal training with the Vacaville, Benicia, and Hercules Police Departments. This includes: 1,051 hours at the P.O.S.T. Basic Police Academy (2009); a 40-hour Traffic Collision Investigation course (2010); a 24-hour Drug Influence course (2012); a 40-hour Interview and Interrogation course (2012); a 24-hour Canine Tactical Operations course (2013); a 40-hour Human Trafficking Investigations course (2017); an 80-hour ICI Major Drug Investigations course (2017); a 4-hour Internet Profiling and Intelligence Gathering course (2017); a 4-hour Informant Management course (2018); a 20-hour Human Trafficking Summit (2019); and many other training courses.

5. In addition to my classroom training, I have been involved in well over 100 drug cases and have investigated a litany of other crimes, including homicides, felony assaults, robberies, burglaries and thefts, forgeries, sexual assaults, physical and sexual child abuse, weapons violations, and missing persons. In my career in law enforcement, I have participated in all aspects of criminal investigations, including physical and electronic surveillance, executing search warrants, the use of GPS data and tracking devices, interviews, and arrests. In addition to my classroom training, this practical experience has formed the basis of my opinions set forth below.

6. Because this Affidavit is being submitted for the limited purpose of establishing probable cause in support of a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only

the facts that I believe are necessary to establish probable cause to believe that the defendant committed the offenses alleged in the complaint.

7. The statements contained in this Affidavit are based in part on: (a) my personal participation in this investigation; (b) information provided by other federal and local law enforcement officers; (c) surveillance reports; (d) criminal history records; (e) information from cooperating sources, including recordings made by such sources; and (f) my training and experience and the training and experience of other law enforcement officers.

8. Unless specifically indicated otherwise, all conversations and statements described in this Affidavit are related in substance and in part only. All figures, times, and calculations set forth herein are approximate.

9. This Affidavit is made in support of a complaint that charges as follows:

a. On or about August 26, 2020, in the Eastern District of California, ANAYA knowingly or intentionally distributed a quantity of a mixture or substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propenamide), a Schedule I Controlled Substance, in violation of 21 U.S.C. § 841(a)(1).

b. On or about January 13, 2021, in the Eastern District of California, ANAYA knowingly or intentionally possessed with intent to distribute 40 grams or more of a mixture or substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidiny] propenamide), a Schedule I Controlled Substance, in violation of 21 U.S.C. § 841(a)(1).

FACTS SUPPORTING PROBABLE CAUSE

I. OVERVIEW OF THE INVESTIGATION

10. This complaint is based on an investigation by the FBI into individuals involved in drug trafficking in and around Vallejo and Patterson, CA. During the investigation, FBI agents developed evidence that ANAYA was involved in the distribution of fentanyl in the Eastern District of California.

11. During the course of this investigation, at law enforcement's direction, a confidential human source ("CHS")¹ purchased a quantity of a mixture or substance containing fentanyl from ANAYA on August 26, 2020.² In connection with this controlled purchase, the CHS had consensually recorded conversations and meetings with ANAYA that involved narcotics distribution.

12. During the course of this investigation, ANAYA was placed under arrest by the California Highway Patrol ("CHP") on January 13, 2021 for possessing a large amount of blue pills stamped with the label "M30." At the time of ANAYA's arrest, the CHP suspected that these M30 pills contained fentanyl. These suspicions were

¹ The CHS has been convicted of the following offenses: burglary, grand theft auto, assault with a deadly weapon (not a firearm), assault with a deadly weapon on an officer (not a firearm), voluntary manslaughter, and participating in criminal street gang. The CHS was arrested for identity theft and forgery in 2006 but was not convicted of these crimes. The CHS does not have any criminal history or convictions for perjury. The CHS has been an informant for the FBI since 2013 and has provided reliable information that has been independently verified by Special Agents and Task Force Officers. This CHS has conducted numerous controlled buys of firearms and narcotics in multiple federal investigations.

² The identification of ANAYA in this Affidavit is based on law enforcement's review of the video-recording and photographs taken of the meeting described in this Affidavit and a comparison of the person who distributed narcotics to the CHS to ANAYA's California Department of Motor Vehicles photograph.

later confirmed following a lab test of the M30 pills seized during ANAYA's January 13, 2021 arrest.

6. During the course of this investigation, the government also sought and was granted a vehicle tracker warrant signed in the Northern District of California for a 2011 white Audi A6 bearing a California License of 6PTS304 (hereinafter "SUBJECT VEHICLE"), which is a vehicle registered to ANAYA.

II. AUGUST 26, 2020 DISTRIBUTION OF 10.4 GRAMS OF FENTANYL TO THE CHS

7. On August 19, 2020, agents were notified about an individual utilizing Snapchat to sell firearms and narcotics throughout Northern California. This individual was utilizing the Snapchat username of "Woodbard0." Under the direction of law enforcement, the CHS sent a friend request to the subject using the Snapchat account Woodbard0. The CHS reported that the subject utilizing the Snapchat account Woodbard0 accepted his friend request on August 24, 2020. The CHS also reported that the subject utilizing the Snapchat account Woodbard0 was currently selling a Five Seven ("FN 57"), which is a semiautomatic pistol, other firearms, and suspected counterfeit "M30" pills.

8. All communications between the CHS and the subject utilizing the Snapchat account Woodbard0 were conducted either on Snapchat direct messaging or a video communication feature within Snapchat. Using the direct messaging function on Snapchat, the CHS contacted Woodbard0 and began talking to him about purchasing the FN 57. During the course of their conversation, the CHS and Woodbard0 came to an agreement that the CHS would purchase two FN 57s and 100

“M30” pills for \$6,800. Based on my training and experience, M30 pills illegally sold in mass quantities are commonly counterfeit pills that are laced with fentanyl.

9. Notably, during the course of this Snapchat direct messaging conversation, the subject utilizing the Snapchat account Woodbard0 asked the CHS if s/he was a police officer. Based on my training and experience, I believe this question indicates that the subject utilizing the Snapchat account Woodbard0 was aware that his gun and drug sales were illegal. Woodbard0 then called the CHS using a video call feature within Snapchat. Both the CHS and Woodbard0 were able to see each other's faces as part of this Snapchat video call.

10. On August 26, 2020, the CHS and Woodbard0 agreed to meet at the Safeway located at 709 Lincoln Road West, Vallejo, CA, which is located within the Eastern District of California. Prior to this meeting, law enforcement agents met with and searched the CHS's person and vehicle for contraband with negative results. Agents gave the CHS Confidential Buy Funds and wired him/her with recording devices. While under constant surveillance, the CHS traveled to the buy location and parked at the north end of the parking lot. Shortly thereafter, the SUBJECT VEHICLE parked alongside the CHS's vehicle.

11. ANAYA exited the SUBJECT VEHICLE and got into the CHS's vehicle. The CHS and ANAYA had a short conversation and ANAYA handed the CHS a plastic bag containing 100 M30 pills. The CHS then counted the \$6,800 in front of ANAYA and handed the money to him. ANAYA then counted the money and asked the CHS to meet him at the back of the SUBJECT VEHICLE.

12. Surveillance units observed the CHS meeting ANAYA behind the two vehicles. ANAYA opened the trunk of the SUBJECT VEHICLE and showed the CHS the two FN 57s. The CHS inspected the firearms and agreed to purchase them. ANAYA was observed by surveillance units handing the CHS a black bag, which contained the two FN 57s. The CHS placed the bag in his/her vehicle and departed the parking lot.

13. While under constant surveillance, the CHS drove to a predetermined location where the two FN 57s, the 100 M30 pills, and the recording devices were recovered.

14. Agents showed the CHS a picture of ANAYA, and the CHS confirmed that the individual in the picture was the person who spoke with him using the Woodbard0 account through Snapchat's video calling feature, and that he was the same person who arrived in the SUBJECT VEHICLE and sold him the two FN 57s and 100 M30 pills.

15. The 100 M30 pills that the CHS received from ANAYA were submitted to the DEA Laboratory in San Francisco for testing, and the laboratory confirmed that the pills contained 10.4 grams of a mixture and substance containing a detectable amount of fentanyl.

III. JANUARY 13, 2021 POSSESSION WITH INTENT TO DISTRIBUTE FENTANYL

16. According to police reports, on January 13, 2021, Officer Matthew Fowles with the CHP was traveling north on I-5 south of Sperry Avenue, in Stanislaus County, which is in the Eastern District of California. Officer Fowles'

attention was drawn to the SUBJECT VEHICLE, which was traveling north on I-5. Officer Fowles observed the SUBJECT VEHICLE change lanes and rapidly accelerate. Officer Fowles visually estimated the speed of the SUBJECT VEHICLE to be approximately 80 to 85 MPH—even though the maximum speed limit for this portion of I-5 was just 70 MPH. Officer Fowles utilized his forward-facing RADAR antenna and obtained a reading of 84 MPH. Officer Fowles then performed a bumper pace of the SUBJECT VEHICLE and obtained a speed of 84 MPH.

17. Based on this information, Officer Fowles conducted a traffic enforcement stop on the SUBJECT VEHICLE, and the SUBJECT VEHICLE exited I-5 at Sperry Avenue and yielded at the Jack in the Box parking lot on Rogers Road just north of Sperry Avenue. Again, this location falls within the Eastern District of California.

18. Officer Fowles contacted the occupants of the vehicle and advised the driver of the reason for the traffic stop. Officer Fowles identified the driver as ANAYA through his California driver's license. Officer Fowles had ANAYA exit the SUBJECT VEHICLE and stand near his patrol vehicle. Officer Fowles retrieved his citation book from his patrol vehicle and began to issue ANAYA a CHP215, which is a Notice to Appear for California Vehicle Code § 22356(b) – Speeding Violation.

19. While issuing ANAYA the citation, Officer Fowles asked ANAYA where he was coming from, and ANAYA informed Officer Fowles that he and his passenger were headed home after dropping off a friend in Los Angeles. ANAYA indicated that he did not know where he dropped off this friend and claimed he just followed the

GPS unit in the SUBJECT VEHICLE. ANAYA told Officer Fowles that he had left his home in Northern California for Los Angeles around 9:00 AM, and that it took approximately 5 hours to drive to Los Angeles.

20. CHP Officer Chavez then arrived on scene to assist with the traffic enforcement stop. Officer Fowles had Officer Chavez stay with ANAYA while Officer Fowles contacted the female passenger in the vehicle so that he could obtain the registration and insurance information for the SUBJECT VEHICLE. Officer Fowles asked the female passenger, who was identified as Jomyra Alexandra Mendoza LOPEZ, how her day was going. LOPEZ told Officer Fowles that she and ANAYA were traveling back from Los Angeles, where they had dropped off her friend. LOPEZ informed Officer Fowles that they were only in Los Angeles for the day. As LOPEZ handed Officer Fowles the requested documents (including her driver's license), he observed that LOPEZ's hands were visibly shaking.

21. Officer Fowles returned to his patrol vehicle and requested that Officer Chavez perform a driver's license and registration check through CHP dispatch. Officer Fowles asked ANAYA if there was anything illegal inside of the SUBJECT VEHICLE, and ANAYA responded that there was nothing illegal in the vehicle. Officer Fowles then deployed his K9 partner, Pakito, from the back of his patrol vehicle. As Pakito passed the left rear taillight of the SUBJECT VEHICLE, Officer Fowles observed a distinct change in Pakito's behavior. Officer Fowles indicated that Pakito slowed, closed his mouth, stopped, and stared at the taillight of the SUBJECT

VEHICLE. Following this alert, Officer Fowles returned Pakito to the rear of his patrol vehicle.

22. Officer Chavez informed Officer Fowles that ANAYA had a valid California driver's license, and that the registration for the SUBJECT VEHICLE was valid and currently registered to ANAYA. Officer Fowles completed the CHP215 and had ANAYA sign it in his presence. Officer Fowles then returned to ANAYA the vehicle registration, insurance information, ANAYA's driver's license, and the signed copy of the CHP215.

23. As ANAYA was walking back to the SUBJECT VEHICLE, Officer Fowles again asked ANAYA if there was anything illegal inside of the SUBJECT VEHICLE. ANAYA again told Officer Fowles that there was nothing illegal inside the vehicle. Officer Fowles asked ANAYA for consent to search the vehicle based on the facts he had thus far learned in his investigation (*e.g.*, that ANAYA and his passenger had made a quick trip to Los Angeles, the level of nervousness of LOPEZ during the stop, and the fact that Pakito alerted on the SUBJECT VEHICLE). ANAYA denied consent to search the SUBJECT VEHICLE. Officer Fowles then asked ANAYA if there were drugs inside of the vehicle, but ANAYA denied having any drugs in the vehicle. Officer Fowles informed ANAYA that his patrol K9 had just alerted to his vehicle. In response, ANAYA told Officer Fowles that they drank yesterday but that was it. Officer Fowles told ANAYA his K9 does not alert to alcohol.

24. Based on the facts he had learned in his investigation during the traffic stop, Officer Fowles conducted a probable cause search of the SUBJECT VEHICLE.

Under the driver's seat of the SUBJECT VEHICLE, Officer Fowles located a fully loaded black Glock 27 Gen 4, semiautomatic pistol with serial number BKLD557. Officer Fowles indicated that there was one round in the chamber, and that the magazine was loaded with eight additional rounds of .40 caliber ammunition. Officer Fowles immediately detained ANAYA and LOPEZ following this discovery.

25. Officer Fowles asked ANAYA if the firearm belonged to him, and ANAYA indicated that the firearm was his, though he had not yet registered the firearm in his name. ANAYA also stated that he had a California concealed weapons permit, but that the firearm Officer Fowles had located was not listed on the permit.

26. Next, Officer Fowles located a large speaker box in the trunk of the vehicle that he was unable to move. Officer Fowles asked ANAYA if the rear seats folded down so that he could access what was behind the speaker box, but ANAYA indicated that he did not believe the seats folded down.

27. Officer Fowles nevertheless was able to fold down the rear seats, and he located a white plastic bag that was tied shut. Inside the white plastic bag were two clear plastic sandwich bags and a small, clear, blue plastic bag with a large amount of small, round, blue pills inside of it. The pills were stamped with the letter "M" and the number "30." Officer Fowles indicated that the pills were not consistent in color. Based upon his training and experience, Officer Fowles believed that these pills contained fentanyl. Officer Fowles estimated that there were approximately 2,000 counterfeit M30 pills in ANAYA's vehicle.

28. Officer Fowles placed ANAYA under arrest and released LOPEZ. ANAYA was transported and booked into the Stanislaus County Public Safety Center on the following charges: California Health & Safety Code § 11351 – possession for sales of narcotics; California Health & Safety Code § 11352 – transportation of narcotics; California Health & Safety Code § 11370.1(a) – possession of narcotics while armed; California Penal Code § 25400 (a)(1) – possession of a concealed firearm; and California Penal Code § 25850(a) – possession of a loaded firearm. ANAYA was later released from state custody on his own recognizance on January 14, 2021.

29. The M30 pills found as a result of the January 13, 2021 traffic enforcement stop of ANAYA's vehicle were sent to California's Bureau of Forensic Services for testing. This laboratory testing confirmed that the pills contained at least 40 grams of a mixture or substance containing a detectable amount of fentanyl. Specifically, the laboratory tested three sets of the M30 pills found in ANAYA's vehicle: (a) the first set weighed 106.277 grams, and a sample of this set tested positive for fentanyl; (b) the second set weighed 103.381 grams, and a sample of this set tested positive for fentanyl; and (c) the third set consisted of 20 tablets, and a sample of this set tested positive for fentanyl.

30. Based on my training and experience, and based on my experience investigating ANAYA's activities, this amount of pills containing fentanyl is consistent with ANAYA's pattern and practice of illegally offering controlled substances for sale. For example, on December 17, 2020 (*i.e.*, prior to his January

2021 traffic enforcement stop), law enforcement had observed ANAYA post on his Woodbard0 Snapchat account the following screenshot:



31. Based on my training and experience, this photograph depicts counterfeit M30 pills, which are commonly laced with fentanyl.

32. During the course of this investigation, law enforcement agents have also seen other advertisements on Snapchat accounts associated with ANAYA for the sale of additional quantities of M30 pills containing fentanyl, along with other controlled substances (e.g., methamphetamine, cocaine, Adderall, and other substances). Due to the fact that ANAYA has repeatedly advertised M30 pills for sale using his Snapchat account, and based on the fact that ANAYA has previously engaged in illegal narcotics sales involving a CHS, I believe that ANAYA possessed with intent to distribute the counterfeit M30 pills that Officer Fowles seized from the SUBJECT VEHICLE on January 13, 2021.

REQUEST FOR SEALING

33. If the Court approves the criminal complaint and arrest warrant requested here, law enforcement officers anticipate taking ANAYA into custody in connection with the execution of a search warrant at his home in Richmond, CA, which has previously been approved by a magistrate judge in the Northern District of California. Based on ANAYA's previous observed activities (including the sale and possession of multiple firearms and controlled substances), there exists a distinct risk that ANAYA may flee upon learning of this criminal complaint and arrest warrant, or that he may arm himself or otherwise take precautions in preparation for the execution of the arrest warrant and/or premises search warrant, or that he may attempt to destroy or hide evidence of his criminal actions. Such action would jeopardize the arresting and searching officers' safety and could impede law enforcement's investigation. Moreover, law enforcement understands that ANAYA has close family members in Mexico and has recently traveled to Mexico. Law enforcement therefore believes that there is a flight risk, should ANAYA become aware of this complaint and arrest warrant. I therefore request that this Court order that all papers in support of this application, including this Affidavit and the arrest warrant, be sealed until further order of the Court.

CONCLUSION

34. Based on the foregoing, there is probable cause to believe that:

a. On or about August 26, 2020, in the Eastern District of California, ANAYA knowingly or intentionally distributed a quantity of a mixture or substance

containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide), a Schedule I Controlled Substance, in violation of 21 U.S.C. § 841(a)(1).

b. On or about January 13, 2021, in the Eastern District of California, ANAYA knowingly or intentionally possessed with intent to distribute 40 grams or more of a mixture or substance containing a detectable amount of fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide), a Schedule I Controlled Substance, in violation of 21 U.S.C. § 841(a)(1).


35. I therefore request that an arrest warrant for ANAYA be issued for these violations.

I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge.


/s/ Brian Collins

BRIAN COLLINS, Task Force Officer
Federal Bureau of Investigation

SUBSCRIBED AND SWORN to me telephonically on March 2, 2021.


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

Reviewed and approved as to form and content by:


Aaron D. Pennekamp
Assistant United States Attorney

United States v. Leobardo Gerardo ANAYA
Penalties for Criminal Complaint

COUNT 1:

VIOLATION: 21 U.S.C. § 841(a)(1) - Possession with Intent to Distribute Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide)

PENALTIES: A maximum of up to 20 years in prison; or
Fine of up to \$1,000,000; or both fine and imprisonment
Supervised release of at least 3 years up to life

SPECIAL ASSESSMENT: \$100 (mandatory on each count)

COUNT 2:

VIOLATION: 21 U.S.C. § 841(a)(1) - Possession with Intent to Distribute over 40 Grams of Fentanyl (N-phenyl-N-[1-(2-phenylethyl)-4-piperidinyl] propenamide)

PENALTIES: Mandatory minimum of 5 years in prison and a maximum of up to 40 years in prison; or
Fine of up to \$5,000,000; or both fine and imprisonment
Supervised release of at least 4 years up to life

SPECIAL ASSESSMENT: \$100 (mandatory on each count)

CRIMINAL FORFEITURE: 21 U.S.C. § 853(a)